

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: TOVEY=1A

In re Application of: ) Conf. No.: 1869  
 Michael TOVEY ) Art Unit: 1614  
 Appln. No.: 09/243,030 ) Examiner: J. Goldberg  
 Filed: February 3, 1999 ) Washington, D.C.  
 For: THERAPEUTIC APPLICATIONS ) April 18, 2003  
 OF HIGH DOSE INTERFERON )  
 ) VIA TELEFACSIMILE

CONDITIONAL NOTICE OF APPEAL FROM THE PRIMARY EXAMINER  
TO THE BOARD OF PATENT APPEALS AND INTERFERENCES

Honorable Commissioner for Patents  
 Washington, D.C. 20231

Sir:

Applicant hereby conditionally appeals to the Board of Patent Appeals and Interferences from the final rejection (or the rejection of claims for at least the second time), dated October 18, 2002, of the Primary Examiner. The claims appealed are claims 22-51. This appeal is conditioned on a finding by the examiner that applicant's response of January 21, 2003, does not place the case into condition for allowance. If allowed, this notice of appeal is moot. If not, this notice of appeal is necessary to prevent unintentional abandonment. Applicant should not be forced to pay for a notice of appeal fee and extension of time fees due solely to the delay within the Patent and Trademark Office in getting applicant's response of January 21, 2003, to the examiner. If a conditional notice of appeal is impermissible, please treat this as an unconditional notice of appeal.

The item(s) checked below are appropriate:

Small Entity Status: Applicant(s) claim small entity status.  
 — See 37 CFR 1.27.

The fee has been calculated as shown below:

<input checked="" type="checkbox"/> \$320.00	09243030
— \$160.00 (small entity)	09243035
— Not required (fee paid in prior appeal)	09243035
<input checked="" type="checkbox"/> Applicant hereby petitions for an extension of time in accordance with 37 CFR 1.136(a). The appropriate fee required by 37 CFR 1.17 is calculated as shown below:	320.00 DA 930.00 DA

In re of Appln. No. 09/243,030

Small Entity	Other Than Small Entity
Response Filed Within	
<input type="checkbox"/> First - \$ 55.00	<input type="checkbox"/> First - \$ 110.00
<input type="checkbox"/> Second \$205.00	<input type="checkbox"/> Second - \$ 410.00
<hr/>	
<input type="checkbox"/> Third - \$465.00	<input checked="" type="checkbox"/> Third - \$ 930.00
<input type="checkbox"/> Fourth \$725.00	<input type="checkbox"/> Fourth - \$1450.00
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month after time  
period set

month after time  
period set

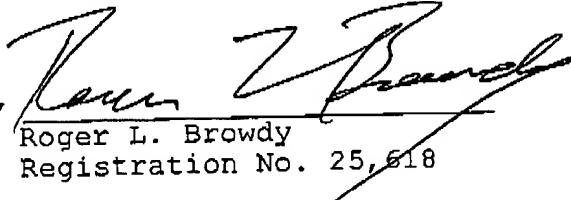
[ ] Less fees (\$\_\_\_\_) already paid for \_\_\_\_ months  
extension of time on \_\_\_\_.

XXX Please charge the amount of \$1,250.00 to my Deposit Account  
No. 02-4035 only on the condition specified above.

XXX Please charge any deficit in the fee necessary to prevent  
abandonment of this application to my Deposit Account No. 02-  
4035.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.  
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#### CERTIFICATE OF FACSIMILE TRANSMISSION

It is hereby certified that above-identified paper,  
entitled CONDITIONAL NOTICE OF APPEAL FROM THE PRIMARY EXAMINER TO  
THE BOARD OF PATENT APPEALS AND INTERFERENCES, was filed in the  
U.S. Patent and Trademark Office on April 18, 2003, by facsimile  
transmission to facsimile no. 703-746-5148.

Rae Dethlefsen  
Name

\_\_\_\_\_  
Signature